



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD
FREEDOM OF INFORMATION ACT BRANCH
Washington, D.C. 20570

Via email

August 11, 2021

Re: FOIA Request NLRB-2021-001153

Dear Sarah Benton:

This is in response to your request, under the Freedom of Information Act (FOIA), 5 U.S.C. § 552, received on July 26, 2021, in which you requested information relating to "how much NLRB spent on PACER over the past 10 years." You also sought "invoices from US Courts and a breakdown by year."

We acknowledged your request on July 24, 2021. On August 5, 2021, a member of my staff reached out to you about a fee issue that was presented. Specifically, you were advised that your request could not be processed because it did not include an assumption of fees. It was explained that for us to move forward with your request, you needed to inform us in writing that you were willing to assume financial responsibility. You were given a fee estimate of \$18.50 and further advised that your request would be closed if you did not provide the FOIA Branch with this written assurance by August 16, 2021. Later that same day, you responded you were willing to assume up to \$5.00 for the processing of your request.

My staff member replied to your August 5th email indicating that \$5.00 was insufficient and that you would need to assume \$9.25 at a minimum for us to move forward. She also provided you with information about contract data already available to the public via the Federal Data Procurement website in case that information might satisfy your request. To date, the FOIA Branch has received no further response from you about your willingness to assume additional fees.

Given your assumption of \$5.00 in fees and in an effort to provide at least some responsive information, an inquiry was directed to the Agency's Office of the Chief Financial Officer (OCFO) to search for available data that OCFO could reasonably compile. Based on their ability to run certain queries, the OCFO provided the attached Excel spreadsheet, which lists Agency payments for our Pacer subscription dating back 10 years. You can filter the spreadsheet to determine a yearly breakdown.

The requested invoices are not being provided at this time based on our preliminary estimate of the time necessary to search for these records and your failure to assume additional fees. Specifically, we were advised by staff in OFCO that it might take longer than two hours to search for the individually requested invoices based on your requested time frame of 10 years, the fact that some of the records may only be in paper, and that more than one office may need to be involved in the search. Accordingly, this portion of your request is being closed. This administrative closure is not an adverse determination. If you continue to seek these records, you may submit a new FOIA request that reasonably describes the invoices sought and includes a sufficient assumption of financial responsibility.

For the purpose of assessing fees, we have placed you in Category D, the “all other requesters” category, because you do not fall within any of the other fee categories. Consistent with this fee category, you will be assessed charges to recover the reasonable direct costs for searching for the requested records, except that you will not be charged for the first two hours of search. NLRB Rules and Regulations, 29 C.F.R. § 102.117(d)(2)(ii)(D). Charges for all categories of requesters are \$9.25 per quarter hour of professional time. 29 C.F.R. § 102.117(d)(2)(i).

Less than two hours of professional time was expended in running the above-mentioned data query. Accordingly, there is no charge assessed for this request.

You may contact Marissa Wagner, the FOIA Attorney-Advisor who processed your request, at (202) 273-2957 or by email at marissa.wagner@nrlrb.gov, as well as the Agency’s FOIA Public Liaison, for any further assistance and/or to discuss any aspect of your request. The FOIA Public Liaison, in addition to the FOIA Attorney, can further explain responsive and releasable agency records, suggest agency offices that may have responsive records, and/or discuss how to narrow the scope of a request in order to minimize fees and processing times. The contact information for the FOIA Public Liaison is:

FOIA Public Liaison
National Labor Relations Board
1015 Half Street, S.E., 4th Floor
Washington, D.C. 20570
Email: FOIAPublicLiaison@nrlrb.gov
Telephone: (202) 273-0902
Fax: (202) 273-FOIA (3642)

After first contacting the Agency, you may additionally contact the Office of Government Information Services (OGIS) at the National Archives and Records Administration to inquire about the FOIA dispute resolution services it offers. The contact information for OGIS is:

Office of Government Information Services
National Archives and Records Administration
8601 Adelphi Road-OGIS
College Park, Maryland 20740-6001
Email: ogis@nara.gov
Telephone: (202) 741-5770
Toll free: (877) 684-6448
Fax: (202) 741-5769

You may obtain a review of this determination under the NLRB Rules and Regulations, 29 C.F.R. § 102.117(c)(2)(v), by filing an administrative appeal with the Division of Legal Counsel (DLC) through FOIAonline at: <https://foiaonline.gov/foiaonline/action/public/home> or by mail or email at:

Nancy E. Kessler Platt
Chief FOIA Officer
National Labor Relations Board
1015 Half Street, S.E., 4th Floor
Washington, D.C. 20570
Email: DLCFOIAAppeal@nlrb.gov

Any appeal must be postmarked or electronically submitted within 90 days of the date of this letter, such period beginning to run on the calendar day after the date of this letter. Any appeal should contain a complete statement of the reasons upon which it is based.

Please be advised that contacting any Agency official (including the FOIA Specialist, Attorney-Advisor, FOIA Officer, or the FOIA Public Liaison) and/or OGIS does not stop the 90-day appeal clock and is not an alternative or substitute for filing an administrative appeal.

Sincerely,

/s/ Synta E. Keeling

Synta E. Keeling
FOIA Officer

Attachment: One Excel spreadsheet